

**SUPPORTING STATEMENT
REPORTING OF SEA TURTLE INCIDENTAL TAKE
IN VIRGINIA CHESAPEAKE BAY POUND NET OPERATIONS
OMB CONTROL NO. 0648-0470**

A. JUSTIFICATION

1. Explain the circumstances that make the collection of information necessary.

This request is for a renewal of this information collection.

Since 2002, the National Oceanic and Atmospheric Administration's (NOAA) National Marine Fisheries Service (NMFS) has promulgated several rules restricting the use of large mesh and stringer pound net leaders in certain Virginia Chesapeake Bay waters during the late spring/early summer each year. On June 17, 2002, an interim final rule on this was published (67 FR 41196) restricting leader use, which also required year round reporting of sea turtle takes. In 2004, a NMFS issued a final rule further restricting pound net leader use in Virginia (69 FR 24997). The 2004 rule retained the reporting requirement from the 2002 rule. Requirements are codified in 50 CFR 222.102, 223.205(b)(15) and 223.206(d)(10). These regulations were implemented as a result of high sea turtle strandings each spring in Virginia and the documented take of sea turtles in pound net leaders. In 2002 and 2004, Biological Opinions on the issuance of these NMFS sea turtle conservation measures were completed pursuant to section 7 of the Endangered Species Act of 1973 (ESA) as amended – the most recent on April 16, 2004. In each of these Biological Opinions, an Incidental Take Statement was also completed, exempting the incidental take of a certain number of loggerhead, Kemp's ridley, green and leatherback sea turtles in pound net operations.

A non-discretionary term and condition of these Incidental Take Statements involved the reporting to NMFS of live or dead sea turtles taken in pound net operations. The collection of this information on the incidental take of sea turtles in the Virginia pound net fishery is necessary to ensure sea turtles are being conserved and protected, as mandated by the ESA. Documenting the accurate occurrence of sea turtle incidental take in pound net operations will help to determine if additional regulatory actions or management measures are necessary to protect sea turtles caught in pound net operations. This information will help NMFS better assess the Virginia pound net fishery and its impacts (or lack thereof) on sea turtle populations in the Virginia Chesapeake Bay. The collection of this information is also imperative to ensure that the April 2004 Incidental Take Statement is not being exceeded, the anticipated take levels are appropriate, and the effects analysis in the Biological Opinion is accurate. Further, reporting the take of live, injured sea turtles caught in pound net gear will ensure these turtles are transferred immediately to a stranding and rehabilitation center for appropriate medical treatment.

2. Explain how, by whom, how frequently, and for what purpose the information will be used. If the information collected will be disseminated to the public or used to support information that will be disseminated to the public, then explain how the collection complies with all applicable Information Quality Guidelines.

Virginia pound net fishermen will call and inform NMFS of any incidental takes of sea turtles in their annual pound net operations. Information provided in these phone calls will include the date and time when the specimen was found, location of pound, location where the animal was found, type and/or mesh size of leader, approximate depth of pound, environmental conditions, fate of the animal, and species information (alive or dead, condition of animal, approximate size, species description). The name and phone number of the respondent will also be noted. The information will be collected by the NMFS Northeast Region Protected Resources Division and then distributed to the NMFS Northeast Fisheries Science Center and the Office of Protected Resources. Information will be collected by NMFS only when a sea turtle is taken in pound net gear, estimated to occur 608 times annually. If an animal is found injured or dead, the fishermen will first report the incident to NMFS, and then to the appropriate stranding and rehabilitation facility (member of the state sea turtle stranding and salvage networks (STSSN)). The additional reports to the stranding and rehabilitation facility are necessary to ensure the animals are immediately retrieved and either treated for their injury (to attempt to prevent subsequent mortality) or necropsied (to help determine cause of death).

Sea turtles are typically present in Virginia waters from May to November, so reporting is expected to occur only during those warmer months. The collected information will be used to monitor the incidental take of sea turtles in pound net operations, as authorized by the Incidental Take Statement. The reporting of information will also be used to help evaluate the capture and mortality of sea turtles in Virginia waters, which is a high priority for NMFS headquarters and Northeast Region, especially during the spring months. Further, the take reports may be used to implement additional appropriate management measures, such as reducing the allowable leader mesh size or modifying the time period of the restrictions. The general intent of collecting this information is to fulfill the general actions stated in the sea turtle recovery plans (i.e., minimize mortality from commercial fisheries).

NMFS will retain control over the information and safeguard it from improper access, modification, and destruction, consistent with NOAA standards for confidentiality, privacy, and electronic information. See response to Question 10 of this Supporting Statement for more information on confidentiality and privacy. The information collection is designed to yield data that meet all applicable information quality guidelines. Although the information collected is not expected to be disseminated directly to the public, results may be used in scientific, management, technical or general informational publications. Should NMFS decide to disseminate the information, it will be subject to the quality control measures and pre-dissemination review pursuant to Section 515 of Public Law 106-554.

3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological techniques or other forms of information technology.

The collection of information in question involves reporting the take of sea turtles via a telephone call or fax. This method of reporting is effective means to collect this information.

While information could be collected via electronic mail, it is believed that Virginia pound net fishermen will have an easier time reporting via a telephone call or fax. Furthermore, it is unknown how many Virginia fishermen have computer access, whereas almost everyone has access to a telephone.

4. Describe efforts to identify duplication.

NMFS does not collect similar information directly from the public, but incidental take information is occasionally reported to the states. The STSSN members collect information on sea turtle strandings and, when reported, incidental take. However, based upon anecdotal information, fishermen have not typically reported incidental takes of sea turtles caught in their gear, and Virginia pound net fishermen would not likely report interactions unless the condition is mandatory. Even in response to NMFS' mandatory requirement, there are not many reports from pound net fishermen (but we suspect that there are turtles being caught in pounds). This reporting requirement enables NMFS to better obtain information on pound net takes, and respond to and collect data on such takes on a real time basis. Besides the previous reporting for which this request is a renewal, this specific type of reporting has not been previously required or requested in Virginia waters.

5. If the collection of information involves small businesses or other small entities, describe the methods used to minimize burden.

This information collection will not have a significant impact on small entities. This collection of information does involve small entities but the impacts are minimized by the relatively infrequent nature of the reporting (i.e., only from May to November, with a maximum of 609 reports: 608 entanglement reports and one stranding report) and the reporting by telephone or fax.

6. Describe the consequences to the Federal program or policy activities if the collection is not conducted or is conducted less frequently.

If this information is not collected, the evaluation and effectiveness of the Biological Opinion and Incidental Take Statement will be compromised. Further, the regulations previously developed will not be able to be evaluated to determine if they are effective in reducing sea turtle mortality. The NMFS, Northeast Region (NER) and Northeast Fisheries Science Center (NEFSC) have dedicated a significant amount of funding and staff time to evaluate and reduce spring sea turtle mortality in Virginia, and this reporting information is essential to both further those efforts and determine if the previous restrictions are appropriate. Additionally, if injured animals are taken and not reported to NMFS, those sea turtles would not receive the necessary medical care that is critical to their survival. Similarly, dead turtles found in the nets would also not be transported to a stranding and rehabilitation facility for a necropsy (if the condition of the animal enables this), and as such, important information on the health of the animal, and potentially the determination on the cause of death, would be lost. Acquiring this information to fulfill the aforementioned objectives is an important aspect of the NMFS Northeast sea turtle program.

7. Explain any special circumstances that require the collection to be conducted in a manner inconsistent with OMB guidelines.

The collection of this information may be inconsistent with the Office of Management and Budget (OMB) guidelines (Item #1). If sea turtles are incidentally taken in pound net fishing operations, fishermen are required to report that information as a result of this information collection. Sea turtles are only in Virginia waters from approximately May to November, but there is no schedule for when a sea turtle may be taken during that time. For example, three sea turtles may be taken in one week, or a sea turtle may be taken every third month. Either way, the fishermen are required to report those interactions. Therefore, there is the potential for fishermen to report sea turtle takes more often than quarterly. While the reporting of sea turtle take may occur more often than quarterly, it will not occur all year round. Further, the estimated number of sea turtles anticipated to be taken in Virginia pound net operations is only 608 turtles annually.

8. Provide information on the PRA Federal Register Notice that solicited public comments on the information collection prior to this submission. Summarize the public comments received in response to that notice and describe the actions taken by the agency in response to those comments. Describe the efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.

A Federal Register Notice published on December 17, 2008 (73 FR 76617) solicited public comment. No comments were received.

9. Explain any decisions to provide payments or gifts to respondents, other than remuneration of contractors or grantees.

No payments or gifts will be provided to respondents.

10. Describe any assurance of confidentiality provided to respondents and the basis for assurance in statute, regulation, or agency policy.

Personal identifiers and any commercial information will be kept confidential to the extent permitted under the Freedom of Information Act (FOIA) (5 U.S.C. 552), the Department of Commerce FOIA regulations (15 CFR Part 4, Subpart A), the Trade Secrets Act (18 U.S.C. 1905), and NOAA Administrative Order 216-100. No specific assurance of confidentiality is given to the respondents.

11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private.

This collection of information does not involve any questions of a sensitive nature.

12. Provide an estimate in hours of the burden of the collection of information.

The total hour estimate for the reporting requirement was determined from the following information:

The number of responses was determined by considering the number of sea turtles anticipated to be caught annually in Virginia pound nets. The number of loggerheads and Kemp's ridleys taken in Virginia pounds was estimated from those animals previously taken in the Potomac River pound nets, the only pounds for which sea turtle takes have been consistently reported from over the years. The number of nets set in the Potomac River has varied slightly among years (between 5 to 7), so for the purposes of this analysis, NMFS assumes that an average of 6 nets was fished per year. From 1980 to 1999, the average number of loggerheads taken in the Potomac River pound nets was 31.07 turtles per year (n=435; Mansfield and Musick 2004), with an approximate 5 loggerhead turtles taken per net. Based on the best available (most complete) information previously obtained from Virginia Marine Resources Commission (VMRC), an estimated 101 pound nets are in the area. Given the available information, the anticipated level of annual take in all pounds in the action area is 505 loggerhead sea turtles (=101 pounds * 5 turtles/net). The average number of Kemp's ridleys taken in the Potomac River pound nets was 2.2 turtles per year (=44 turtles/20 years), with an approximate 0.37 turtles taken per net, or 1 turtle per net. This would result in an anticipated level of annual take of 101 Kemp's ridley sea turtles (=101 pounds * 1 turtles/net) for all pounds in the action area. NMFS further anticipates that one green turtle could be captured in all of the pounds of pound net gear annually.

Additionally, based upon previous level of entanglement in the spring and scientific studies, NMFS anticipates that one loggerhead, Kemp's ridley, green, or leatherback sea turtle will be entangled in leaders each year in the Virginia waters of the Chesapeake Bay, even with the current regulations in effect. This entanglement is expected to result in mortality.

Over the past three years, there have not been any reports of sea turtle interactions in Virginia pound net gear. However, sea turtles occur in Virginia Chesapeake Bay waters, and may continue to be subject to interactions with pound net gear, which would make this reporting requirement applicable. It is possible that fishermen are not complying with the mandatory reporting requirements. The estimates for reporting were based on the best available information from previous studies with sea turtles and pound net gear.

The anticipated number of sea turtles taken annually in pound net operations is 505 loggerheads, 101 Kemp's ridleys, and 1 green taken in pounds (all live and uninjured), plus 1 loggerhead, Kemp's ridley, green, or leatherback in leaders (assumed to be dead). Therefore, a total of 608 turtles are anticipated to be taken by this action per year. If an animal is found injured or dead, the fishermen are first required to report the incident to NMFS, and then to the appropriate stranding and rehabilitation facility. As such, for the 1 animal that may be found dead, 2 reports for that turtle will be made. As a result, 609 reporting calls (608 to NMFS plus 1 to stranding network) should be completed each year.

The number of respondents was calculated by determining the number of licensed pound net fishermen in the Virginia Chesapeake Bay. While there are an estimated 101 pound nets in the area, the best available data from VMRC indicates that there were 41 licensed pound net fishermen in 2008.

The hourly burden was calculated by assuming a phone call to NMFS or the stranding/rehabilitation facility will last for a maximum of 10 minutes. Therefore, with 609 reports lasting 10 minutes per report, the hourly burden would be 6,090 minutes, or 101.5 (102) hours.

13. Provide an estimate of the total annual cost burden to the respondents or record-keepers resulting from the collection (excluding the value of the burden hours in Question 12 above).

The cost burden was obtained by using the information on anticipated numbers of reports as presented in Question 12 and the following information:

An estimated 609 reports (calls) are anticipated to be conducted annually. The cost of a 10 minute call was estimated to be \$3 per call. Therefore, a total cost estimate was determined to be \$1,827 for all Virginia pound net fishermen annually.

14. Provide estimates of annualized cost to the Federal government.

The estimated cost to the Federal government will be only in terms of staff hours. An anticipated 608 reports will be called in to NMFS, and each call is expected to last a maximum of 10 minutes. NMFS staff will be able to compile any written report/notes during this phone call. As such, the total hourly burden on NMFS would be 101.3 hours. The financial burden would depend upon the pay band level of the party answering the phone call. As the staff fielding these calls likely will be pay band level III, approximately 101.3 hours of work (about 2.5 weeks) would cost the Federal government approximately \$3,000. However, this task would be included in the respective staff's performance plan and would not be an additional monetary requirement (as it is included in the staff's current salary).

15. Explain the reasons for any program changes or adjustments.

The number of respondents has decreased from 53 to 41, based on new information on the number of Virginia pound net licensees. NOTE: the cost did not change, only appeared to decrease by \$173 based on rounding off of cost when migrating last version into ROCIS.

16. For collections whose results will be published, outline the plans for tabulation and publication.

The results of this information collection are not anticipated to be published.

17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons why display would be inappropriate.

This item is not applicable to this information collection request.

18. Explain each exception to the certification statement identified in Item 19 of the OMB 83-I.

This item is not applicable to this information collection request.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

This information collection request does not employ statistical methods.